REMARKS

SECTION 103 REJECTION OF CLAIM 1

Claim 1 stands rejected as being rendered obvious by the combination of *Nowitz*,[1] *Hu*,[2] and *Beyer*.[3]

Nowitz

Nowitz addresses a difficulty associated with searching for media content on the internet.[4] This difficulty arises because search engines rely primarily on text.[5] *Nowitz*'s innovation lies in its "mechanism for defining a directory of a structured data store and descriptive data contained therein."[6]

The subject matter of *Nowitz* is thus completely different from Applicant's claims. *Nowitz* is directed to the technical problem of searching for particular content on the internet. In contrast, Applicant's claims recite ways to make sure that content is displayed correctly on various kinds of mobile devices.

Hu

In *Hu*, a server serves a community of clients, some of which use mobile devices and some of which use stationary devices. The technical problem addressed by *Hu* is that of "load testing" the server, i.e. assessing the computation burden that these clients are likely to impose on this server. This has nothing to do with Applicant's claims, which recite ways to make sure that content is displayed correctly on various kinds of mobile devices.

In the second office action, the Office cited *Hu* as disclosing the limitation of "analyzing the first set of content files for errors by emulating a first category of wireless devices." According to the Examiner, this limitation was disclosed in paragraphs 17 and 21 of *Hu*.

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[1] *Nowtiz*, et al. U.S. Patent No. 7,308,464.
[2] *Hu*, U.S. Patent Publ. 2003/0182408.
[3] *Beyer* et al., U.S. Patent Publ. 2003/0135487.
[4] *Nowitz*, col. 1, lines 15-20.
[5] *Nowitz*, col. 1, lines 57-64.
[6] *Nowitz*, col. 3, lines 30-33.

Paragraph 17

Paragraph 17 reads as follows:

> [0017] The method and system in accordance with a preferred embodiment of the present invention tests an entire enterprise infrastructure by emulating hundreds of clients, including mobile users, using real-time performance monitors to identify and isolate problems. It can simulate any synchronization scenario that a real client presents, such as a data store refresh, an upload of new adjustment form data to data sources in the enterprise, and a download of new adjustment form data onto the mobile device. In addition, it can provide emulation of any combination of synchronization scenarios. From the server's perspective, the server cannot differentiate between requests issued by the emulated clients from those issued by actual users.[7]

Paragraph 17 does not discuss errors in content files. In fact, there is no discussion about errors at all. Paragraph 17 simply describes properties of a system that emulates client activities for the purpose of analyzing the computation burden placed on a server by various clients. Paragraph 17 describes the purpose of the disclosed embodiment as that of analyzing computation burden, *not* errors in content files.

Applicant requests that the Office quote verbatim the particular text in paragraph 17 that is believed to disclose the limitation of "analyzing the first set of content files for errors by emulating a first category of wireless devices."

Paragraph 21

Paragraph 21, which allegedly discloses "analyzing...content files for errors," reads as follows:

> [0021] Think time: Controls the speed at which the virtual user interacts with the server by including pauses for think times during test execution. By varying think times for users, the behavior of different devices, e.g., PDAs and cell phones, can be emulated.

The foregoing paragraph merely states that one way to emulate a user-session occurring on a mobile device is to vary a "think time." The foregoing paragraph says nothing about any role played by device emulation in "analyzing...content files for errors."

The Office Action includes the statement that

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[7] *Hu*, paragraph 17.

"*Hu* disclosed on how mobile devices are emulated for testing of data content"[8]

Although the foregoing statement is not altogether clear, it appears to be an assertion that *Hu* teaches emulating a wireless device for the purpose of testing data content. In the preceding response, Applicant pointed out that no documentary evidence had been presented to support this assertion, and that no further passages besides paragraphs 17 and 21 have been offered to support this assertion.

In the present action, the Office has provided two new paragraphs that allegedly disclose either how mobile devices are emulated for testing data content, or that somehow disclose the limitation of "analyzing the first set of content files for errors by emulating a first category of wireless devices." We now turn to these two new paragraphs in detail.

Paragraph 41

Paragraph 41 from *Hu* reads as follows:

> [0041] Through aspects of the present invention, communications (requests and responses) exchanged between a client and a server are simulated by a thread. Because, the request/response pairs are not actually created and processed by each virtual user, the load tester system of the present invention can be designed lightly. Moreover because the load tester system relies primarily on the message file and configuration file to test various scenarios, the tester need only capture a new trace (and create a new message file) to run a new test.

A careful reading of the foregoing paragraph reveals no discussion of analyzing content files for errors by emulating a first category of wireless devices. The paragraph appears to be about how messages are exchanged between client and server. It has nothing whatsoever to do with wireless devices or analyzing content files for errors.

Applicant requests that the Office quote verbatim the particular words and phrases in paragraph 41 that are believed to disclose the claim limitation of "analyzing the first set of content files for errors by emulating a first category of wireless devices."

Paragraph 42

Paragraph 42 from *Hu* reads as follows:

> [0042] The method and system of the present invention supports a stateful model, i.e., messages can be

[8] *Office Action*, page 4, lines 2-3.

> built based on previous synchronization user sessions with the server because state related information is stored in the configuration file. So, for example, the load tester system can emulate user sessions on clients utilizing a Mobile Data Synchronization Protocol (MDSP), which requires each client to have its own configuration settings, to remember which application it is subscribed to, which synchronization session it is processing, and which authentication id it has. All such information varies from one user to the next and can be different for the same user at different synchronization stages.

The foregoing paragraph discusses the idea that each client can remember its own configuration settings. This enables each client to remember all of its own state information. Remembering one's own state information has absolutely nothing to do with "analyzing the first set of content files for errors by emulating a first category of wireless devices." Accordingly, the foregoing paragraph has nothing at all to do with the claim limitation "analyzing the first set of content files for errors by emulating a first category of wireless devices."

Applicant requests that the Office quote verbatim the particular words and phrases in paragraph 42 that are believed to disclose the claim limitation of "analyzing the first set of content files for errors by emulating a first category of wireless devices."

Beyer

Beyer allegedly discloses the claim limitation of

> "generating a log file including a navigation history and error information, wherein the navigation history includes one or more paths of links traversed during the first web crawling process."

Based on the search strategy posted in PAIR, *Beyer* appears to have been identified only because the word "log" occurred within five words of the word "history" in cited paragraph 42:

> [0042] A system and method has been shown in the above embodiments for the effective implementation for automated access to web content based on log analysis. While various preferred embodiments have been shown and described, it will be understood that there is no intent to limit the invention by such disclosure, but rather, it is intended to cover all modifications and alternate constructions falling within the spirit and scope of the invention, as defined in the appended claims. For instance, while one embodiment uses proxy logs, any appropriate manner of maintaining a log of valid accesses is appropriate. As an example, individual users maintain a log, in the form of the history list, in their browser, which may be used.

Beyer's log file contains a history of where a *user* has been. It does not contain a history of links traversed by a web crawling process.

Claim 1 requires "generating a log file including a navigation history...[that] includes...paths of links traversed *during the web crawling process*." This does not include paths or links traversed by a user.

According to *Beyer*, a prior art web crawler could only find content through a *static* link. It cannot find content reached via a *dynamic* link. *Beyer* addresses this difficulty by having a web crawler simulate a real user. The web browser does so by using log files that describe user activity. These log files do not contain "navigation history" that includes "paths of links traversed during" a web crawling process, as required by claim 1.

Accordingly, even if one were to somehow combine the disclosure of *Beyer* with that of the remaining references, the combination would still fail to yield the claimed invention.

Motivation to combine references is flawed

As motivation to combine *Nowitz, Hu*, and *Beyer*, the Office Action states that "one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment."

The Office is required to articulate some line of reasoning that would have led one of ordinary skill in the art to combine the teachings of the references. The fact that two references are "within the same environment" is not a basis for combining the references in a section 103 rejection.

As motivation to combine *Nowitz* and *Hu*, the Office Action further states that one of ordinary skill in the art would have done so "for the purpose of efficient data content management via the aid of emulation of wireless/mobile devices."[9]

It is unclear how combining *Nowitz* and *Hu* would lead to "efficient data content management." In fact, it is not altogether clear what the Office means by "efficient data content management," or how "wireless/mobile devices" can help manage data content more efficiently.

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[9] *Office Action*, page 4, 13-16.

Hu is concerned with load testing a server. *Nowitz* is concerned with finding media content on the internet. Neither *Nowitz* nor *Hu* have anything to do with managing data content.

Then, as motivation to combine *Nowitz* and *Beyer*, the Office suggests that doing so would result in "efficient data content management with the aid of log information." It is unclear what the Office means by "efficient data content management" or exactly what role "log information" might play in it.

According to the Supreme Court in *KSR v. Teleflex*, the Office must supply some "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."[10] A broad generalization that combining teachings would result in "efficient data content management," without even some rudimentary explanation of why this is the case, can hardly amount to "articulated reasoning with some rational underpinning."

The Office Action makes no attempt whatsoever to indicate why the *Nowitz* "method and system for generating rules describing a data store having content"[11] would be able to manage that content any more efficiently simply because it can emulate wireless devices, or use a log file. In fact, the proposed motivation to combine appears to have been generated by simply dropping selected words from a claim into a template, without any analysis whatsoever.

In view of the foregoing defects in the section 103 rejection, Applicant requests its reconsideration and withdrawal.

SECTION 103 REJECTION OF CLAIM 2, 4-12, 19-23, 25-27, and 29-31

The Office Action summarily rejects a slew of claims because these claims allegedly recite limitations similar to those in one or more of their respective parent claims.

This is not the case. Each of the claims 2 and 4-12 recites additional substantive limitations beyond those recited in their respective parent claims. The Office has failed to identify in the references any teaching or suggestion of these claim limitations. Accordingly, the section 103 rejections of claims 2 and 4-12 is improper.

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[10] *KSR v. Teleflex*, 127 S.Ct. 1727, 1741.
[11] *Nowitz*, col. 2, lines 15-16.

The same reasoning applies to the rejections of claims 19-23, 25-27, and 29-31.

The summary section 103 rejection of the foregoing claims is also inconsistent Rule 1.104(c)(2), which requires that "when a reference is complex or shows or describes inventions other than that claimed by the application, the particular part relied on must be designated as nearly as practicable."

The summary section 103 rejection of the foregoing claims is also inconsistent with 35 USC 132, which requires that "[w]henever, on examination, any claim for a patent is rejected...the Director shall notify the applicant thereof, stating the reasons for rejection...together with such information or references as may be useful in judging of the propriety of containing the prosecution."

Finally, the summary section 103 rejection of the foregoing claims is inconsistent with the Administrative Procedures Act, section 557(c), which states that "[t]he record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of (A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record."

SECTION 103 REJECTION OF CLAIM 3

The Office states that claim 3's additional limitation of "identifying a first set of language elements that are supported by the first category of wireless devices" is disclosed by the union of *Nowitz*, col. 4, lines 33-40 and paragraphs 17 and 21 of *Hu*.

The passage at *Nowitz* col. 4, lines 33-40 reads as follows:

> Sources of metadata include web page content, uniform resource locators (URIs), media files, and transport streams used to transmit media files. Web page content includes HTML, XML, metatags, and any other text on the web page.[12]

The foregoing passage merely enumerates the various places where one might be able to find metadata. Identifying places from which metadata can be obtained hardly amounts to

[12] *Nowitz*. col. 4, lines 33-40.

"identifying a first set of language elements." Neither the metadata itself nor the location in which it is stored are "language elements."

The foregoing passage also says nothing about wireless devices. For this, the Office turns to *Hu* paragraphs 17 and 21. These passages say little more than that user sessions on wireless devices can be emulated while load testing a server. The Office Action fails to articulate how one of ordinary skill in the art who knew that wireless devices could be emulated while load testing a server, and who also knew where to obtain metadata would be led to claim 3's step of "identifying a first set of language elements that are supported by the first category of wireless devices."

SECTION 103 REJECTION OF CLAIM 16

The Office cites *Sheth*[13] to disclose providing a user with a blank form, which the user fills out and submits. However, according to *Sheth*, once the user fills in the form, "the form input is translated into three or four different types of queries."[14] There is no disclosure or suggestion that the blank form, when filled in, would be used to generate a test configuration file.

In fact, according to *Hu*, which the Office relies upon to disclose claim 15's "configuration file," information stored in the configuration file is extracted from a server's reply, not from user data entered into a blank form on a screen.[15] Accordingly, there is no suggestion in the cited art for "receiving input from a user...into...input data fields" and "generating the test configuration file based on the user input."

As motivation to combine the references, the Office suggests one of ordinary skill in the art would have found it obvious to incorporate capturing data from a user with a blank form into the teachings of *Hu*, *Beyer*, and *Nowtiz* "for the purpose of obtaining data to be used for data management purposes."

The proposed combination of references makes no sense because *Hu*, *Beyer*, and *Nowitz* are not concerned with data management. *Nowitz* is concerned with searching for media content

[13] *Sheth* et al., U.S. Patent No. 6,311,194.
[14] *Sheth*, col. 13, line 67 to col. 14, line 1.
[15] *Sheth* claim 3 recites, "(f) receiving a reply from the server; (g) extracting, from the reply, information..."

on the internet. *Hu* is concerned with load testing a server. *Beyer* is concerned with enabling web crawlers to access dynamic hyperlinks.

SECTION 103 REJECTION OF CLAIM 18

According to claim 18, "the link includes one or more variable values based on the first content file." But claim 1 recites "the web crawling process including identifying a link in a first content file." Thus, implicit in claim 18 is the requirement that the link be identified by a web crawling process.

The Office nevertheless asserts that this claim limitation is met by *Sheth*, which discloses a user entering user information into a blank form. As best understood, the Office regards entry of values into a blank form as amounting to entry of values in a link. Thus, in the Office's view, to the extent a user enters variable values into the blank form, that user is generating a link that includes variable values based on some content file (which the Office does not identify).

As a threshold matter, *Sheth* does not expressly disclose having a user enter a variable value in a blank form at all. All *Sheth* discloses is that a user enters values for certain attributes into blank fields of a form. *Sheth* does not disclose or suggest that these values can be variable values.

Furthermore, the values that a user enters into the blank fields of a form in *Sheth* are not identified in a content file retrieved by a web crawling process. These values are simply typed in by a user. There is no disclosure or suggestion in *Sheth* of having a web crawling process identify a link in a content file, where that link includes variable values based on that content file.

Accordingly, Applicant requests reconsideration and withdrawal of the section 103 rejection of claim 18.

SECTION 103 REJECTION OF CLAIM 17

Claim 17 requires the additional limitation that "the user data includes one or more variable values that are used to create a *dynamic* URL."

The Office evidently regards this claim limitation as being met because, according to *Nowitz*, a seed can represent a URL. In doing so, the Office has read the word "dynamic" out of the claim. The claim does not refer to just any URL, it refers to a *dynamic* URL. *Nowitz* does not disclose or suggest that the seed can be a *dynamic* URL.

According to *Nowitz*, a web crawler "uses [a] web link as a seed to search and retrieve information from a located resource." These web links are arrived at by having a web crawler crawl the network quasi-randomly. Thus, it does not seem possible for the URL to be a dynamic URL. In fact, nowhere does *Nowitz* even refer to a URL as being a dynamic URL.

It is therefore apparent that neither *Nowitz*, nor any of the cited references, disclose or suggest user data that includes variable values used to create a dynamic URL. Accordingly, Applicant requests reconsideration and withdrawal of the section 103 rejection of claim 17.

CONCLUSION

Now pending in this application are claims 1-32, of which claims 1, 19, 25, and 29 are independent. No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 06-1050, referencing Attorney Docket No. 08575-0103001.

Respectfully submitted,

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